

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #7	CCRB Case #: 201803798	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 05/06/2018 4:22 AM	Location of Incident: 86th Street Subway Station	Precinct: 68	18 Mo. SOL 11/6/2019	EO SOL 11/6/2019	
Date/Time CV Reported Sun, 05/06/2018 8:55 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 05/14/2018 11:18 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Amet Vrzivoli	04643	963798	068 PCT
2. POM Louis Vannucci	19072	959330	068 PCT
3. LT Idris Guven	00000	936720	068 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Juan Guzman	02942	943338	068 PCT
2. POM Alexander Caruso	09320	956497	068 PCT
3. POM Azeem Chatha	13036	957449	068 PCT
4. SGT Robert Chung	2918	940005	068 PCT
5. POM Adam Osman	06470	955282	068 PCT
6. POM Manuel Martinez	03482	955136	068 PCT
7. POM Jason Frias	22908	962413	068 PCT
8. POM Zeshan Naeem	13915	951603	068 PCT
9. POM Granit Shaba	21077	963269	068 PCT
10. POM Michael Randazzo	02621	951116	068 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Amet Vrzivoli	Force: Police Officer Amet Vrzivoli used a chokehold against § 87(2)(b)	
B.POM Louis Vannucci	Force: Police Officer Louis Vannucci used physical force against § 87(2)(b)	
C.LT Idris Guven	Force: Lieutenant Idris Guven used physical force against § 87(2)(b)	
D.POM Louis Vannucci	Discourtesy: Police Officer Louis Vannucci spoke discourteously to § 87(2)(b)	
E.LT Idris Guven	Discourtesy: Lieutenant Idris Guven spoke discourteously to § 87(2)(b)	
F.POM Amet Vrzivoli	Discourtesy: Police Officer Amet Vrzivoli spoke discourteously to § 87(2)(b)	
G.POM Amet Vrzivoli	Abuse: Police Officer Amet Vrzivoli threatened § 87(2)(b) with the use of force.	

Case Summary

On May 6, 2018, Sgt. Robert Chung of the 68th Precinct called the IAB Command Center and reported this complaint on behalf of § 87(2)(b). On May 14, 2018, the case was received at the CCRB.

On May 6, 2018, at approximately 4:20 a.m., inside the 86th Street subway station in Brooklyn, Police Officer Amet Vrzivoli of the 68th Precinct used a chokehold against § 87(2)(b) (Allegation A: Force, § 87(2)(g)). Police Officer Louis Vannucci and Lieutenant Idris Guven of the 68th Precinct used physical force against § 87(2)(b) (Allegations B and C: Force, § 87(2)(g)). PO Vannucci and Lt. Guven spoke discourteously to § 87(2)(b) (Allegations D and E: Discourtesy, § 87(2)(g)). PO Vrzivoli spoke discourteously to § 87(2)(b) and threatened him with the use of force (Allegation F: Discourtesy, § 87(2)(g); Allegation G: Abuse of Authority, § 87(2)(g)).

§ 87(2)(b) was arrested as a result of this incident and charged with resisting arrest, first degree assault with an intent to cause physical injury, and disorderly conduct (BR17). According to the Office of Court Administration (OCA), § 87(2)(b)'s criminal case stemming from this incident was fully adjudicated, and § 87(2)(b) pled guilty to disorderly conduct and received a § 87(2)(b) day prison sentence (BR16).

Police body worn camera and security cameras from 86th Street subway station captured this incident in its entirety (BR03-BR05).

Findings and Recommendations

Allegation (A) Force: Police Officer Amet Vrzivoli used a chokehold against § 87(2)(b)

§ 87(2)(b) (BR01) had no recollection of this incident, except that he was heading home after returning from a bar when two unidentified women pointed him out to PO Juan Guzman of the 68th Precinct, identified via investigation. § 87(2)(b) did not know why the two women pointed him out to PO Guzman. PO Guzman walked towards § 87(2)(b) but § 87(2)(b) fled on foot. § 87(2)(b) ran because he was on parole, and his parole conditions prohibited him from drinking alcohol or visiting bars. § 87(2)(b) entered the 86th Street subway station, located between 86th Street and 4th Avenue, but he was tackled to the ground by a group of unidentified officers. § 87(2)(b) was handcuffed and removed to the hospital via ambulance, where he received treatment for intoxication, as well as swelling and bruises to his face (BR02). § 87(2)(b) did not recall being placed in a chokehold, nor did he recall if his breathing was restricted or if the officers used any other form of additional force against him.

The investigation received two videos from the Metropolitan Transportation Authority (MTA) security cameras located inside the 86th Street subway station. Both footages captured this incident from two separate angles, and has no audio. The first footage (BR03) captured this incident from the interior mezzanine facing the entrance of the emergency gate and the turnstiles. Embedded in the footage is a date and time clock, but the time clock is approximately one hour behind the actual time of the incident. The footage shows § 87(2)(b) running and attempting to open the subway emergency gate. At 03:06:01, PO Vrzivoli, identified via investigation, approaches § 87(2)(b) from behind, places his left arm around § 87(2)(b)'s neck, and his right arm underneath § 87(2)(b)'s chin. PO Vrzivoli then attempts to push § 87(2)(b) towards the ground. At 03:06:03, § 87(2)(b) slightly bends his upper body, and his head appears to be locked in between PO Vrzivoli arms. At 03:06:04, PO Vannucci and PO Alex Caruso of the 68th Precinct, identified via investigation, arrive and position themselves in front and behind § 87(2)(b) and try to assist PO Vrzivoli in bringing § 87(2)(b) to the ground. At 03:06:05, PO Vrzivoli removes his right arm

from underneath § 87(2)(b)'s chin, and strikes § 87(2)(b) in the face with a closed fist at least four times, while his left arm is still wrapped around § 87(2)(b)'s neck. At 03:06:30, PO Vrzivoli, PO Vannucci, and PO Caruso, push § 87(2)(b) to the ground, and appear to be struggling with him, though their actions are clearly not depicted in the video. At 03:06:46, PO Vrzivoli, PO Vannucci, PO Caruso, and some additional officers who had arrived on scene, get up from the ground and stand over § 87(2)(b) who appears to be on the ground, though not depicted in the video. It is unclear from this video how long PO Vrzivoli had his arms around § 87(2)(b)'s neck.

The second MTA video (BR04) captured this incident from the exterior mezzanine camera facing the exit of the emergency gate. The footage has an accurate date and time clock embedded in it. The video shows PO Vrzivoli, at 04:06:00, placing his left arm over § 87(2)(b)'s neck and that his left forearm is directly underneath § 87(2)(b)'s chin. PO Vrzivoli's left arm remains around § 87(2)(b)'s neck and chin prior to and after § 87(2)(b) is pushed to the ground. At 04:06:17, PO Vrzivoli, who appears to be on top of § 87(2)(b) moves away from § 87(2)(b).

PO Vrzivoli recorded this incident on his body worn camera (BR05). The video shows him seemingly pursuing § 87(2)(b) into an underground subway station. At 04:04:19, PO Vrzivoli catches up to § 87(2)(b) and stretches forth his left hand towards § 87(2)(b)'s head. At 04:04:28, PO Vrzivoli strikes § 87(2)(b) twice in his face with a closed fist. At 04:04:29, the camera captures PO Vrzivoli's left and right forearms underneath § 87(2)(b)'s neck and making direct contact with § 87(2)(b)'s chin and throat. It is unclear from the video if PO Vrzivoli applies pressure to § 87(2)(b)'s neck. At 04:04:37, PO Vrzivoli grabs § 87(2)(b)'s neck with both hands and together with the other officers' push § 87(2)(b) to the ground. At 04:04:49, PO Vrzivoli, who appears to be on top of § 87(2)(b) attempts to move away from § 87(2)(b) while the other officers struggle with § 87(2)(b) and order him to show them his hands.

PO Vrzivoli (BR07) said that he and his partner, PO Jason Frias of the 68th Precinct, were driving in the vicinity of 87th Street and 5th Avenue, when PO Guzman radioed for backup and said he was engaged in a foot pursuit of § 87(2)(b) who had allegedly punched an unidentified male at local bar. Approximately one minute later, PO Vrzivoli saw § 87(2)(b) running westbound on 86th Street and heading towards 4th Avenue. PO Vrzivoli exited his vehicle and pursued § 87(2)(b) while PO Frias remained in the police vehicle.

PO Vrzivoli ordered § 87(2)(b) multiple times to stop, but § 87(2)(b) ignored him and headed inside 86th Street subway station. PO Vrzivoli followed § 87(2)(b) inside the subway station, and saw § 87(2)(b) attempting to open the emergency gate. PO Vrzivoli approached § 87(2)(b) from behind, wrapped both his arms around § 87(2)(b)'s waist, and tried to push § 87(2)(b) to the ground. § 87(2)(b) moved his right hand backwards, which nearly hit PO Vrzivoli in the face, and began to bend and move his upper body so as to free himself from PO Vrzivoli's grips.

PO Vannucci, PO Caruso, and some officers from the 68th Precinct arrived and assisted PO Vrzivoli in bringing § 87(2)(b) to the ground and placing him in handcuffs. PO Vrzivoli did not recall exactly how § 87(2)(b) was brought to the ground, nor did he recall using any other form of force against § 87(2)(b). PO Vrzivoli did not recall striking § 87(2)(b) in the face with a closed fist, denied placing § 87(2)(b) in a chokehold, and did not recall ever making contact with § 87(2)(b)'s neck at any point during this incident.

PO Vrzivoli reviewed the video evidence and was presented with the various instances where he was captured striking § 87(2)(b) in the face with the closed right fist, as well as where he had wrapped his arms around § 87(2)(b)'s neck. PO Vrzivoli acknowledged striking § 87(2)(b) in the face and said the hand strikes were to obtain compliance from § 87(2)(b) due his active resistance. PO Vrzivoli also said that the entire incident happened very quickly that he had no

recollection as to why or how his arms ended being around § 87(2)(b)'s neck. However, at the prompting of the Police Benevolent Association (PBA) Representative, Kate Colin, PO Vrzivoli said that he had initially attempted to grab § 87(2)(b) by his torso and shoulders, and that his arms unintentionally went around § 87(2)(b)'s neck when § 87(2)(b) bent his body and tried to move away from PO Vrzivoli. PO Vrzivoli, however, did not recall why his arms remained around § 87(2)(b)'s neck prior to and after § 87(2)(b) was brought to the ground. Also at the prompting of § 87(2)(b) Colin, PO Vrzivoli denied that he grabbed § 87(2)(b) by the neck and pushed him to the ground, as depicted in his BWC, and said the footage rather showed him grabbing § 87(2)(b)'s shoulders.

NYPD Patrol Guide Procedure 221-01, states that officers “will use only the reasonable force necessary to gain control or custody of a subject,” and, “In determining whether the use of force is reasonable, [officers] shall consider... actions taken by the subject... [and the] immediacy of the perceived threat or harm to the subject, [officers], and/or bystanders.” A chokehold is defined as “any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air,” and states, “[officers] SHALL NOT use a chokehold.” (BR07).

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Force: Police Officer Louis Vannucci used physical force against § 87(2)(b)

Allegation (C) Force: Lieutenant Idris Guven used physical force against § 87(2)(b)

The interior MTA security camera at 03:06:05, (BR03), shows PO Vannucci striking § 87(2)(b) once with a closed left fist, while PO Vrzivoli and PO Caruso struggle with § 87(2)(b). At 03:06:05, PO Vannucci grabs § 87(2)(b) whose upper body is slightly bent, by the back of the hand, and strikes him in the face with his left knee approximately two times. § 87(2)(b) falls to the ground and appears to be kneeling, though his upper body is still bent, and his face appears to be towards the ground. At 03:06:12, PO Vannucci places his left knee on an unclear part of § 87(2)(b)'s body, and presses him so that he is lying flat on the ground. PO Vannucci, PO Vrzivoli, PO Caruso, together with Police Officers Azeem Chatha, Manuel Martinez and Jason Frias of the 68th Precinct, all identified via investigation, struggle with § 87(2)(b) on the ground, though their actions are clearly not depicted in this video.

At 03:06:24, Lt. Guven, identified via investigation, places his body on top of § 87(2)(b) while the other officers struggle with § 87(2)(b) on the ground. It is unclear from the video which part of § 87(2)(b)'s body Lt. Guven makes contact. At 03:06:47, Lt. Guven strikes an unspecified part of § 87(2)(b)'s leg approximately three times with his left foot. It is unclear from the video § 87(2)(b)'s exact actions at this point, though the officers appear to be struggling with him. At 03:06:59, all the officers get up from the ground and stand over § 87(2)(b) who is still on the ground. At 03:07:07, PO Vannucci observes a bruise on his right arm and elbow. At 03:07:17, the officers pick § 87(2)(b) up from the ground and escort him out of the subway station.

The exterior MTA security camera, at 04:06:09, (BR04), shows PO Vannucci striking the left side of § 87(2)(b)'s face with his left knee, while PO Vrzivoli and PO Caruso appear to be pushing § 87(2)(b) to the ground. At 04:06:36, Lt. Guven appears to be standing on § 87(2)(b)'s legs, and then striking one of the legs, unclear from the video which leg, approximately four times with his foot.

PO Vannucci (BR08) said that when he arrived at the subway station, he saw § 87(2)(b) flailing his arms and struggling with PO Vrzivoli. PO Vannucci approached and assisted PO Vrzivoli in bringing § 87(2)(b) to the ground. PO Vannucci did not recall how § 87(2)(b) was brought to the ground, did not recall striking § 87(2)(b) in the face with a closed fist or his left knee, nor did he recall using any additional form of force against § 87(2)(b). PO Vannucci did not recall what happened after § 87(2)(b) was brought to the ground, except that additional officers arrived and assisted in handcuffing § 87(2)(b) and escorting him out of the subway station. PO Vannucci did not recall how long it took for officers to handcuff § 87(2)(b) after he was brought to the ground, nor did he recall if § 87(2)(b) made any movements with his body while on the ground. PO Vannucci saw § 87(2)(b) bleeding from his face when he was being escorted out of the subway station, but PO Vannucci did not know how § 87(2)(b) sustained those injuries. PO Vannucci also sustained an abrasion to his right forearm and knuckle as a result of this incident, but he did not recall exactly how he sustained this injury.

PO Vannucci reviewed the MTA security camera footages of this incident, but said they did not refresh his memory about the incident. At the prompting of the PBA representative, Ann Zaslow, PO Vannucci denied that he struck § 87(2)(b) in the face with a closed fist, and said the video only showed him reaching for an unclear part of § 87(2)(b)'s upper body. Also at the prompting of Ms. Zaslow, PO Vannucci denied striking § 87(2)(b) in the face with his left knee, and said the video only showed him raising his left leg from the ground. PO Vannucci, however, did not recall why his left leg was raised from the ground just about the same time § 87(2)(b)'s head was slightly bent, while the other officers also pushed him towards the ground.

Lt. Guven (BR09) said that when he arrived, he saw multiple officers struggling with § 87(2)(b) on the ground, and ordering § 87(2)(b) to give them his hands, but § 87(2)(b) appeared to be noncompliant. Lt. Guven did not recall § 87(2)(b)'s exact movements, if any, while § 87(2)(b) was on the ground, but said he could see § 87(2)(b)'s hands. Scared that § 87(2)(b) was potentially armed, Lt. Guven attempted to apply his body weight on § 87(2)(b) so that the other officers could obtain § 87(2)(b)'s arms, but that was unsuccessful. He thus moved towards § 87(2)(b)'s legs and struck § 87(2)(b)'s calves approximately two times with his foot. Lt. Guven did not recall if § 87(2)(b) made any movements with his legs, but said the foot strikes to § 87(2)(b)'s calves were consistent with pain compliance technique training he received from the police academy in 2005, which allowed officers to induce varying levels of pain on individuals who were otherwise aggressive or resisting arrest so as to gain voluntarily compliance. Lt. Guven said the foot strikes to § 87(2)(b)'s calves were effective because the officers obtained § 87(2)(b)'s hands and handcuffed him soon after the foot strikes to § 87(2)(b)'s calves.

PO Vrzivoli, PO Caruso (BR10), and PO Chatha (BR11) all corroborated PO Vannucci's and Lt. Guven's accounts, and while PO Vrzivoli did not recall if § 87(2)(b) made any movements with his body while he was on the ground or fail to give the officers his hands, PO Caruso and PO Chatha both confirmed that § 87(2)(b) moved with his arms, body, and legs while on the ground, and that he ignored multiple orders to give officers his hands. PO Caruso thus struck § 87(2)(b) approximately once or twice on his back to prevent him from moving his body, while the other officers tried to gain his arms. PO Chatha held § 87(2)(b)'s legs, while the other officers tried to

pull § 87(2)(b)'s hands from underneath his stomach. (Physical force allegations were not pleaded against PO Chatha and PO Caruso because the force used was minimal and thus does not rise to the level of misconduct).

As discussed earlier, NYPD Patrol Guide Procedure 221-01, permits officers to use force when it is reasonable to ensure their safety or a third person, and to gain compliance and prevent escape from custody.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (D): Discourtesy: Police Officer Louis Vannucci spoke discourteously to § 87(2)(b)

Allegation (E): Discourtesy: Lieutenant Idris Guven spoke discourteously to § 87(2)(b)

Allegation (F): Discourtesy: Police Officer Amet Vrzivoli spoke discourteously to § 87(2)(b)

Allegation (G): Abuse of Authority: Police Officer Amet Vrzivoli threatened § 87(2)(b) with the use of force.

PO Vrzivoli's BWC captures an officer, identified via investigation as PO Vannucci, saying to § 87(2)(b) at 04:04:40, "Get the fuck on the ground," while officers attempt to push § 87(2)(b) towards the ground. At 04:05:02, § 87(2)(b) who is lying face first on the ground and is rear cuffed, complains that he can't breathe. (A restricted breathing allegation was not pleaded because § 87(2)(b) did not make this allegation, nor was the investigation able to determine whether § 87(2)(b)'s alleged difficulty breathing was as a result of the fact that he had been running from officers or as a result of officers' actions). At 04:05:31 and 04:05:41, respectively, PO Vannucci and Lt. Guven both instruct § 87(2)(b) to "Shut the fuck up." At 04:05:42, PO Vrzivoli says to § 87(2)(b) "Yo, if you touch me again I'mma fuck you up," while § 87(2)(b) is escorted out of the subway station.

Lt. Guven, PO Vannucci, and PO Vrzivoli, all acknowledged making the above discourteous statements and threat to use force against § 87(2)(b) and said their statements were unintentional, and that they were made in the heat of an otherwise stressful encounter.

NYPD Patrol Guide Procedure 203-09, states that officers must be courteous and respectful when interacting with members of the public. (BR12). However, in prior disciplinary cases, the NYPD has held that the use of profane remarks during stressful situations or while an officer is trying to get a chaotic situation under control, does not constitute misconduct. DAO-DCT Disciplinary Case No. 2017-17005 (BR13).

NYPD Patrol Guide Procedure 221-01, prohibits officers from using any level of force to punish, retaliate against, or coerce a subject.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
 - [REDACTED]
- Lt. Guven has been a member-of-service for 14-years and has been a named subject in three CCRB complaints and seven allegations, none of which were substantiated, [REDACTED]
§ 87(2)(g) [REDACTED]
- PO Vannucci has been a member-of-service for three years and has been a named subject in two CCRB complaints and two allegations, none of which were substantiated, [REDACTED]
§ 87(2)(g) [REDACTED]
- PO Vrzivoli has been a member-of-service for one year and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On April 9, 2019, a Notice of Claim inquiry was sent the NYC Office of the Comptroller, and the inquiry is still pending. The result will be added to the case file upon receipt (BR15).

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date